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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/787,710	05/30/2001	Henri Kwok Wai Lee	P07140US00/D	5851

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1199 NORTH FAIRFAX STREET
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ALEXANDRIA, VA 22314

EXAMINER

SCHWARTZ, JORDAN MARC

ART UNIT	PAPER NUMBER
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2873

DATE MAILED: 08/11/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/787,710

Applicant(s)

LEE, HENRI KWOK WAI

Examiner

Jordan M. Schwartz

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 June 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 3,5-11,13,17,18,20,23-25,27,31-35,37 and 42-51 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 3,5-11,13,17,18,20,23-25,27,31-35,37 and 42-47 is/are allowed.
- 6) ☒ Claim(s) 48-51 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 9.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Oath/Declaration

The examiner's objection to the declaration is withdrawn. As applicant correctly noted, the declaration states "if different from PO address" below "Residence" which the examiner had failed to notice when previously reviewing the declaration. The declaration is therefore in compliance with the CFR and MPEP.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 48 and 50 are rejected under 35 U.S.C. 102(b) as being anticipated by Gilson et al patent number 4,542,964.

Gilson et al reads on these claims by disclosing the limitations therein including the following: a method for reducing ocular muscular fatigue due to convergence demand (column 4, line 7 to column 5, line 11, column 12, line 58 to column 13, line 67); comprising converging light prior to the light incident on the users eye (column 13, lines 48 to 53 in that the lenses having positive power will inherently converge light); by means of a pair of optical elements (Figure 2); wherein the optical elements are additionally color filters (abstract); the lenses as spectacles (Figure 2); and the lenses

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for converging light to reduce ocular convergence demand (column 4, line 7 to column 5, line 11, column 12, line 58 to column 13, line 67).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 49 and 51 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gilson et al in view of Cohen patent number 4,911,546.

In reference to these claims, Gilson et al discloses as is set forth above and further discloses that users of CRT and VDT screens exhibit ocular fatigue and visual discomfort (column 1, line 10 to column 2, line 27) and that for viewers of VDT screens, the lenses can be colored with a yellow filtering optical region in order to make the work station region appear brighter (column 5, lines 14-22, column 12, lines 13-25). Cohen further acknowledges that viewers of CRT and VDT screens exhibit visual discomfort (column 1, lines 15-30 and column 9, lines 48-54) and further teaches that when lenses are being designed for users of CRT screens, they can be colored with a color filter that reduces the transmission of yellow light in order to eliminate the problems of glare and after images (column 9, lines 48-67). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to have the lenses of Gilson et al as being colored with a color filter that reduces the transmission of yellow light since both Gilson et al and Cohen acknowledge that the viewing of CRT and VDT

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screens produce ocular fatigue and while the lenses of Gilson et al are designed for viewers of VDT screens and are provided with a yellow filtering optical region to make a work station appear brighter, Cohen teaches that if the lenses are being designed for CRT viewing it is desirable to have the lenses comprise a color filter that reduces the transmission of yellow light in order to eliminate the problems of glare and after images.

Allowable Subject Matter

Claims 3, 5-11, 13, 17-18, 20, 23-25, 27, 31-35, 37, and 42-47 are allowed.

The following is a statement of reasons for the indication of allowable subject matter: with respect to the allowable subject matter, none of the prior art either alone or in combination disclose or teach the claimed combination of limitations. Specifically, with reference to independent claim 3, none of the prior art either alone or in combination disclose or teach of the claimed apparatus for avoiding ocular muscular fatigue comprising the claimed binocular light converging means comprising two optical elements, the elements converging incident light thereby reducing ocular convergence demand, and specifically further with the optical elements as base-in prisms having approximately a 0.5 base. Specifically, with reference to independent claim 20, none of the prior art either alone or in combination disclose or teach of the claimed method for reducing ocular muscular fatigue due to convergence demand comprising converging light prior to being incident on a user's eye by a pair of optical elements, and specifically further with the optical elements forming base-in prisms having approximately a 0.5 base. Specifically, with reference to independent claim 37, none of the prior art either alone or in combination disclose or teach of the claimed pair of spectacles for avoiding

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ocular muscular fatigue comprising a pair of convergent lenses for converging incident light thereby reducing ocular convergence demand by the user, and specifically further with the lenses as base-in lenses having approximately a 0.5 base.

Response to Arguments

Applicant's arguments with respect to the above rejected claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jordan M. Schwartz whose telephone number is (703)

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308-1286. The examiner can normally be reached on Monday to Friday (8:00-5:30), alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Georgia Y. Epps can be reached at (703) 308-4883. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-7722 for regular communications and (703) 308-7722 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.



Jordan M. Schwartz
Primary Examiner
Art Unit 2873
August 1, 2003